

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,) 4:04CR3025
)
Plaintiff,)
)
vs.) ORDER ON PRESENTENCE
)
JOSE ALBERTO PEREZ,) INVESTIGATION REPORT
)
Defendant.)

The defendant's counsel, by means of the Defendant's Written Statement and Request for Evidentiary Hearing, filing 32, has objected to the two-level Specific Offense Characteristic enhancement of paragraph 32 of the Presentence Investigation Report, denying that he offered to sell to any person any firearm of any kind at any time and specifically denies he possessed a dangerous weapon during the course of the conspiracy he pled guilty to joining. Accordingly, an evidentiary hearing will be necessary to resolve the objection to paragraphs 23 and 32.

I raise with the parties and the probation officer the question of the effect of paragraphs 3 and 4 of the Presentence Investigation Report and filings 15, 16, 17, 18, and 21 as possibly indicating an adjustment for obstruction of justice or for acceptance of responsibility.

IT IS ORDERED that:

1. an evidentiary hearing shall be held on the objection of the defendant at the time of the sentencing, which is 12:15 p.m. on June 21, 2005;
2. counsel and the probation officer shall be expected to deal with the question I have posed regarding possible obstruction of justice and any effect of that issue on acceptance of responsibility;
3. if evidence is to be offered in support of or in opposition to any issue before the court at the evidentiary hearing, the provisions of paragraph 6(c) of the Order on Sentencing Schedule need to be complied with; and

4. aside from the effect of the objection and the issues discussed in this order, I tentatively find that the Presentence Investigation Report is accurate and factual.

Dated June 8, 2005.

BY THE COURT

s/ Warren K. Urbom
United States Senior District Judge